

FILED BY CLERK

MAY 14 2010

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2009-0195
	)	DEPARTMENT B
Appellee,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
ANDY ALEXANDER,	)	the Supreme Court
	)	
Appellant.	)	
_____	)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20083800

Honorable Clark W. Munger, Judge

AFFIRMED

Emily Danies

Tucson  
Attorney for Appellant

E C K E R S T R O M, Presiding Judge.

¶1 After a three-day trial, an eight-person jury found appellant Andy Alexander guilty of one count of selling or transferring a narcotic drug, a class two felony committed on September 18, 2008. It found him not guilty of a second count alleging a similar offense committed two days earlier, on September 16, 2008. It also found the

quantity of cocaine base involved in the September 18 transaction exceeded the statutory threshold amount of 750 milligrams. In June 2009, the trial court sentenced Alexander to a mitigated four-year term of imprisonment, and this appeal followed.

¶2 Counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating she has reviewed the record and found “no arguable question of law” to raise on appeal and asking this court to search the record for fundamental error. In compliance with *Clark*, counsel has provided “a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Alexander has not filed a supplemental brief.

¶3 Viewed in the light most favorable to upholding the convictions, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that, in September 2008, Alexander owned and operated a tire business near Sixth Avenue and 22nd Street in Tucson. At the time, he had two employees, one of whom was Adrian Gallegos. On September 16, 2008, an undercover Tucson police officer went to the tire shop and bought forty dollars worth of crack cocaine from Gallegos, whom she knew from a previous drug purchase. As the officer watched, Gallegos gave Alexander the forty dollars she had given Gallegos, and Alexander handed Gallegos four “baggies” of cocaine that Gallegos in turn gave the officer.

¶4 While she was at the tire shop on September 16th, the officer had told Alexander she had some “rims and tires” she wanted to exchange for cocaine. Two days later, on the 18th, she returned to the shop with tires and rims in a pickup truck. After some negotiation, Alexander and his employees unloaded the tires and rims from the truck. Alexander told the officer he was awaiting “a delivery” before he could give her the full three-eighths ounce of cocaine he had agreed to exchange for the tires and rims. In the meantime, he gave her two bags of crack cocaine that he said he would “just deduct” from the balance he would give her later.

¶5 Abundant evidence supported Alexander’s conviction, and his mitigated, four-year sentence was within the statutory range prescribed for his offense. *See* 2006 Ariz. Sess. Laws, ch. 104, § 1. We have examined the entire record pursuant to *Anders* and have found no reversible error and no arguable issue warranting further appellate review. *See* 386 U.S. at 744. We therefore affirm Alexander’s conviction and sentence.

/s/ Peter J. Eckerstrom

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Judge

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Judge